

## Message Text

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ACTION SNM-05

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TO SECSTATE WASHDC 2727

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E.O. 11652: N/A  
TAGS: SNAR, BC  
SUBJECT: NARCOTICS LAWS

REF: STATE 170187

1. SUMMARY: IN RESPONSE TO REQUEST FOR CURRENT MATERIAL ON GOB NARCOTICS LAWS FOLLOWING INFORMATION COLLECTED. THERE HAVE BEEN VERY FEW DRUG RELATED TRIALS IN BOTSWANA. TO DATE NO AMERICAN CITIZEN HAS BEEN ARRESTED IN CONNECTION WITH NARCOTICS POSSESSION. WHEN ARRESTS OCCUR THE OFFENSE IS USUALLY MARIJUANA (DAGGA, MOTOKWANE) POSSESSION OR TRAFFICKING. MANY OF THESE CASES INVOLVING BOTSWANA CITIZENS ARE DECIDED THROUGH THE TRADITIONAL JUSTICE SYSTEM BY THE CHIEFS, TYPICALLY RESULTING IN CANING OF THE OFFENDERS. END SUMMARY.

2. THERE IS NO DIFFERENTIATION MADE IN THE LAW FOR POSSESSION OF VARIOUS NARCOTICS. NOR IS THERE A QUALIFYING AMOUNT TO BE IN POSSESSION FOR OPERATION OF THE OFFENSE SPECIFIED BY LAW OR REGULATION.. PENALTIES ARE WITHIN THE DISCRETION OF LAW ENFORCEMENT AND JUDICIAL AGENCIES.

3. THE GOB LAW CONSOLIDATES ALL CONTROLLED SUBSTANCES INTO A GENERAL TRAFFICKING OFFENSE. THE MAXIMUM PENALTY FOR DEALING IN DRUGS IS A FINE OF PULA 1000 (US \$1220) AND THREE YEARS IN PRISON. NO MINIMUM AMOUNT IS SPECIFIED TO  
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DISTINGUISH TRAFFICKING FROM MERE POSSESSION. THE LAW DOES NOT CONTAIN A CRIMINAL OFFENSE RELATING TO CONSPIRACY TO TRAFFIC, IMPORT OR EXPORT.

4. CULTIVATION OF CANNABIS, COCAINE (COCA) AND OPIUM POPPIES IS PROHIBITED BY LAW.

5. THERE IS NO SPECIFIC OFFENSE RELATING TO FINANCIAL SUPPORT FOR CULTIVATION, ELABORATION OR TRAFFICKING IN NARCOTICS. THIS AREA HAS NOT BEEN ONE OF CONCERN BY GOB. THERE ARE NO UPWARD LIMIS ON EXPORT OF FOREIGN CURRENCY, ALTHOUGH A SUBSTANTIAL FIGURE WOULD REQUIRE SOME INVESTIGATION AS TO REASON FOR REQUEST.

6. THERE IS A FORTY-EIGHT HOUR PERIOD OF INVESTIGATIVE DETENTION. CONSULAR OFFICER IS NOTIFIED OF ARREST WITHIN THIS PERIOD AND PERMITTED ACCESS TO PRISONER. IF ARREST OCCURS IN AN ISOLATED PART OF BOTSWANAN, THE LENGTH OF PRE-TRIAL DETENTION MAY BE EXTENDED UNTIL THE DETAINEE CAN BE BROUGHT BEFORE THE NEAREST MAGISTRATE. IT IS VERY DIFFICULT TO ESTIMATE THE LENGTH OF TRIAL PROCESS AS DRUG RELATED CASES ARE SO INFREQUENT. THE DEFENDAT WOULD BE ALLOWED THE FULL PROCEDURAL PROCESS WHICH COULD LAST UP TO ONE MONTH. UNLESS A MURDER IS ASSOCIATED WITH THE ARREST OF THE DRUG POSSESSOR/TRAFFICKER, THE COURT WILL NOT APPOINT A NO COST PUBLIC DEFENDER. THERE ARE SEVERAL ADEQUATE LAWYERS WHO COULD HANDLE NARCOTICS CASES; A ROUGH ESTIMATE OF THEIR FEE WOULD BE 200 PULA (US \$244). ALTHOUGH THERE ARE FEW CASES TO GO ON, IT WOULD BE CONSISTENT WITH GOB TREATMENT OF OTHER MINOR OFFENSES TO EXPEL FOREIGNERS FOR MINOR DRUG RELATED OFFENSES.

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